



SOUTH DAKOTA BIRTH TO FIVE LA, LEA, AND SEA RESPONSIBILITIES

**Regarding Child Find for Children who reside
on a Reservation within LEA Jurisdiction.**

GUIDANCE DOCUMENT

August 2009

"This document is result of collaborative efforts from New Mexico Local Education Agencies, Bureau of Indian Education (FACE Program), New Mexico Public Education Department, South Dakota Department of Education, the Office of Special Education Programs (OSEP) and Technical Assistance for Excellence in Special Education (TAESE)"

South Dakota LA, LEA, and SEA Responsibilities Regarding Child Find for Children who reside on a Reservation within LEA Jurisdiction

Q & A Guidance Document

August 2009

This document is intended to be used by LAs, LEAs, SEA, (Part B-619 and Part C), BIE (Tribal, Grant Schools, Family and Child Education (FACE) program, and BIE schools), Head Start Programs, and other agencies working with birth to 5 children on reservations.

Purpose

There has been confusion about who is responsible for providing special education services for children (age birth to 5) who reside on a Reservation within the Lead Agency's, Local Education Agency's (LEA's) jurisdiction. This document is intended to provide guidance regarding this issue.

Framing the Issue

There are many children in the State (age birth to 5) who reside on a Reservation within an LA/LEA's Jurisdiction. Sometimes it is unclear as to who is responsible for providing special education services, reporting to OSEP, and ensuring that Child Find is carried out for those children.

- How are Child Find responsibilities carried out?
- How do children birth to three on the reservation and their families receive special education Part C services?
- How do the Bureau of Indian Education (BIE) 3-5 population and Family and Child Education (FACE) programs interface with LEAs?

- How should Memorandums of Understanding (MOUs) be used to ensure services are provided for children (birth to 3) and (3-5) residing on Reservations and LA/LEAs that have Jurisdiction for those children?

Questions and Responses

The following are commonly asked questions and responses

Birth to three year olds:

- 1. Question: Are LA's responsible to provide early intervention services to infants, toddlers, and their families with disabilities residing on a reservation within the jurisdiction of the LA?**

Response: Yes

Under section 634(1) of the Act, the lead agency in the State is responsible for ensuring that early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State.

When a child has been identified through the Birth to Three Connections early intervention screening process as needing an evaluation, it is the responsibility of the public school district to provide an appropriate evaluation as defined in the administrative rules of South Dakota. (ARSD 24:14)

24:14:12:02. Evaluation and assessment of individual child. A service coordinator shall arrange for the evaluation of each birth through two child referred for evaluation. The process shall be conducted by qualified personnel, be based on informed clinical opinion, and include a review of health records.

An evaluation of the child's level of functioning shall be conducted in each of the following developmental areas:

- (1) Cognitive development;
- (2) Physical development including vision and hearing;
- (3) Communication and development;
- (4) Social or emotional development; and

(5) Adaptive development.

As assessment shall be made of the unique needs of the child in terms of each of the developmental areas listed in this section, including the identification of services appropriate to meet those needs.

Source: 20 SDR 223, effective July 7, 1994; 28 SDR 105, effective January 31, 2002.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-1-23, 13-14-1, 13-37-1.1.

24:05:22:01. District required to identify children in need of special education or special education and related services. Each school district shall develop and utilize a system for the identification, location, and evaluation of children in need of special education or special education and related services. The system must include all children residing within the jurisdiction of the district who are ages birth through 21 regardless of the severity of their disability, including children in all public and private agencies and institutions, private schools, including religious schools, and children receiving alternative instruction under SDCL 13-27-3 within the legal boundaries of the district. The requirements of this section apply to:

(1) Wards of the state and highly mobile children with disabilities such as migrant children and homeless children; and

(2) Children who are suspected of being children with disabilities under this article and in need of special education, even though they are advancing from grade to grade.

IDEA 2004 Part C proposed Regulations
Child Find for Indian Children.

Proposed §303.19(a) and (b), which provides the definitions of Indian and Indian tribe, respectively, would incorporate the definitions of these terms in section 602(12) and 602(13) of the Act. In addition, proposed §303.19(c) would clarify that the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior, which is only authorized to provide funding to Federally Recognized tribes, is not required to provide funding to a State Indian tribe for which the BIA is not responsible.

Section 602(13) of the Act defines Indian tribe to include “any Federal or State Indian tribe” and does not exclude State Indian tribes that are not Federally Recognized tribes. The list of Indian entities recognized as eligible to receive services from the United States is published in the Federal Register, pursuant to section 104 of the

Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1. The Federal government does not maintain a list of other State Indian tribes. **Under section 634(1) of the Act, the lead agency in the State is responsible for ensuring that early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State.**

Three to Five Year Olds:

- 1. Are public schools that have BIE schools in their geographic area obligated to provide preschool services for Indian children with disabilities?**

Response: Yes

The bottom line is that the responsibility for FAPE for students 3-5 living on reservations lies with the State, not with BIE, or the tribes. Under IDEA, BIE receives 611 funds to provide special Education and related Services to children with disabilities on reservations aged 5 through 21 enrolled in elementary and secondary schools operated or funded by BIE. BIE does not receive any 619 funds. 20% of the 611 funds are distributed to tribes for the “coordination of assistance for special education and related services for children with disabilities aged three to five on reservations. [300.712(a)]. These funds must be used to assist in child find, screening and other procedures for the early identification of children aged three through five, parent training and the provision of direct services. [300.712(d)]. Although these funds, as you see, can be used for direct services, they do not have to be. Most importantly, 300.707 outlines the responsibility for BIE to ensure FAPE for children 5-21 living on reservations attending elementary or secondary schools operated or funded by BIE. It goes on to state that “With respect to all other children aged 3 to 21, inclusive, on reservations, the SEA of the State in which the reservation is located must ensure that all of the requirements of Part B of the Act are implemented.” [300.707(c)]. Therefore the responsibility for providing FAPE for children 3-5 attending preschools rests with the State. This remains true if the children are attending BIE (FACE programs) or tribally funded preschools.

24:05:13:02. Free appropriate public education (FAPE) defined. For purposes of this article, the term, free appropriate public education, or FAPE, includes special education and related services which meet the following requirements:

- (1) Are provided at public expense, under public supervision and direction, and without charge;
- (2) Meet the standards of the state board in this article and the implementing regulations for Part B of the Individuals with Disabilities Education Act as in effect December 3, 2004, and 34 C.F.R. Part 300, published in the Federal Register on August 14, 2006;
- (3) Include preschool, kindergarten, elementary school, and secondary school education in South Dakota; and
- (4) Are provided in conformity with an individual educational program and this article.

FAPE shall be made available to any eligible individual child with a disability who needs special education and related services even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. FAPE shall also be provided to eligible children with disabilities who have been suspended or expelled from school consistent with chapters 24:05:26 and 24:05:26.01. The determination that a child is eligible under this article must be made on an individual basis by an IEP team.

2. If a BIE Indian child who is 3-5 years old needs direct special education and related services. Does the LEA pay the costs for services or does money flow from the tribe to the LEA to pay the costs?

Response:

The SEA is ultimately responsible for ensuring FAPE. If the tribe chooses to use their funds to provide the services, the State does not have to duplicate the services.

If the tribe wants to pay that is fine, but they are not obligated to do so. If the tribe is not paying then the State, and by extension, the LEA, must do so. In any case, it is the State's responsibility to ensure FAPE is being provided; that IEP teams are meeting, appropriate IEPs are being developed, services provided etc. This is true, regardless of who is providing the service, or who is paying for it.

3. Tribes receive Funds for Child Find; under 618 who counts the children when reporting to OSEP?

Response: 300.644 Child Count

Tribes receive Part B funds to assist States in conducting child find for children aged three through five suspected of having a disability on reservations. However, BIE is not responsible for conducting child find or providing special education and related services to children with disabilities aged three through five on reservations (with the exception of five-year-old children enrolled in an elementary school operated or funded by the Secretary of the Interior).

Therefore, BIE should not be counting them. An LEA is responsible for conducting child find and providing special education and related services to children with disabilities aged three through five who reside on a reservation within the LEA's jurisdiction. Therefore, the LEAs are responsible for including those children in their child count, reporting data under section 618 of IDEA, completing evaluations, and determining eligibility.

4. How is a placement for a 3- to 5-year-old child decided; in other words, in what environment should the special education services be provided?

Response:

Placement is an IEP decision: the team determines the appropriateness of the setting and where services will be provided. If the parent questions whether their child's placement is providing FAPE in LRE, they have a right to use dispute resolution processes to resolve the dispute.

24:05:25:05. Eligibility and placement procedures. In interpreting evaluation data for the purpose of determining eligibility and determining the educational needs of the child, in making placement decisions, including decisions regarding preschool children, each school district shall do the following:

- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- (2) Ensure that information obtained from all of these sources is documented and carefully considered;

(3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;

(4) Ensure that the placement decision is made in conformity with the least restrictive environment rules in chapter 24:05:28; and

(5) Ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

If a determination is made that a child is disabled and needs special education and related services, an individual education program must be developed for the child in accordance with this article.

24:05:28:10. Preschool programs. The requirements of this chapter apply to all eligible preschool children, ages three to five, inclusive, who are entitled to receive a free appropriate public education.

In each case, the school district must ensure that placement is based upon each child's individual education program and meets all the other requirements of this chapter.

Note: Under 34 CFR 300.116(a), the placement decision must be made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. In some States, the IEP team serves as the group making the placement decision. This does not violate the IDEA so long as the required members of the group that determines the educational placement meet the requirements of the IDEA as set forth in §300.116(a)(1).

34 CFR 300.114 to 300.116

Sec. 300.114 LRE requirements

(a) General.

- 1) Except as provided in Sec. 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and Sec. Sec. 300.115 through 300.120.
- 2) Each public agency must ensure that—
 - i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

- ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) Additional requirement--State funding mechanism—

1) General.

- i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and
- ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

- 2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.

(Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

Sec. 300.115 Continuum of alternative placements

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

- 1) Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- 2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

Sec. 300.116 Placements

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that —

- (a) The placement decision —
 - 1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
 - 2) Is made in conformity with the LRE provisions of this subpart, including Sec. Sec. 300.114 through 300.118;
- (b) The child's placement —
 - 1) Is determined at least annually;
 - 2) Is based on the child's IEP; and
 - 3) Is as close as possible to the child's home;
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
- (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

(Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

5. Who is responsible for the transition of Part C birth - three students to the Part B preschool program?

Response:

24:05:27:21. Transition to preschool program. Each local school district shall develop policies and procedures for the transition of children participating in the early intervention program under Part C of the Individuals with Disabilities Education Act (IDEA) who are eligible for participation in preschool programs under Part B of IDEA.

Each district's policies and procedures must include the following:

- (1) A description of how the families will be included in the transitional plans;
- (2) Procedures to be used by the district for notifying the local network in which the child resides of the need for transitional planning;
- (3) Procedures for convening, with the approval of the family, a conference between the network, family, and district;
- (4) A requirement for convening the conference at least 90 days, and at the discretion of all parties, not more than 9 months before the child is eligible for the preschool program under Part B of Individual with Disabilities Education Act; and
- (5) Procedures for reviewing a child's program options for the period beginning with the day a child turns three and running through the remainder of the school year including the development and implementation of an individual education program consistent with this article.

Each affected district shall participate in transition planning conferences arranged by the IDEA, Part C, program.

In the case of a child with a disability, aged three, previously eligible for Part C of IDEA, the IEP team must consider the child's IFSP that contains the IFSP content, including the natural environments statement, described in article 24:14.

6. If the IEP team determines that the FACE program is the appropriate placement, how is that data collected?

Response:

The FACE program is considered for all students (with or without disabilities) and may be considered an integrated setting in which the student is with typically developing peers. However, this should be considered on a case-by-case basis.

7. Indicator #7 in the State Performance Plan requires reporting to OSEP. Who is responsible for the data collection and reporting?

Indicator 7: Percent of preschool children with IEPs who demonstrate improved

- Positive social-emotional skills (including social relationships),
- Acquisition and use of knowledge and skills (including early language/communication and early literacy), and

- Use of appropriate behaviors to meet their needs

20 U.S.C. 1416 (a)(3)(A))

Response:

The LEA is responsible for data collection and reporting results to the SEA for submission to OSEP

8. Does the FACE program provide Special Education and Related Services under Part B for the 3–5 population?

Response:

- The FACE program may help with Child Find and Screening.
- It does not receive funding to provide direct services under Part B
- FACE, is a Bureau-funded program but does not receive funding for the Pre-School program to provide Part B special education and related services for children aged three to five
- The FACE program is a setting. It is not a provider of Part B special education and related services.

9. What are the Federal Requirements for SEAs, LEAs, and BIE for child find and services for children aged 3–5 in special education?

Response:

SEA: 300.111 Child Find Responsibility, all children to be identified, located, and evaluated.

Sec. 300.111 Child find

(a) General.

- 1) The State must have in effect policies and procedures to ensure that –
 - i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and
 - ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

- (b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section:
 - 1) A State that adopts a definition of developmental delay under Sec. 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
 - 2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.
 - 3) If an LEA uses the term developmental delay for children described in Sec. 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
 - 4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.
- (c) Other children in child find. Child find also must include –
 - 1) Children who are suspected of being a child with a disability under Sec. 300.8 and in need of special education, even though they are advancing from grade to grade; and
 - 2) Highly mobile children, including migrant children.
- (d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in Sec. 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

(Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1401(3)); 1412(a)(3))

Note: SEAs often assign LEAs the responsibility for conducting child find for children suspected of having a disability within the jurisdiction of the LEA.

Sec. 34 CFR 300.712 Payments for education and services for Indian children with disabilities aged three through five

- (a) General. With funds appropriated under section 611(i) of the Act, the Secretary makes payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged three through five on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the

Interior. The amount of the payments under paragraph (b) of this section for any fiscal year is equal to 20 percent of the amount allotted under Sec. 300.701(b).

- (b) Distribution of funds. The Secretary of the Interior must distribute the total amount of the payment under paragraph (a) of this section by allocating to each tribe, tribal organization, or consortium an amount based on the number of children with disabilities aged three through five residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.
- (c) Submission of information. To receive a payment under this section, the tribe or tribal organization must submit the figures to the Secretary of the Interior as required to determine the amounts to be allocated under paragraph (b) of this section. This information must be compiled and submitted to the Secretary.
- (d) Use of funds.
 - 1) The funds received by a tribe or tribal organization must be used to assist in child find, screening, and other procedures for the early identification of children aged three through five, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, LEAs, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities.
 - 2) The tribe or tribal organization, as appropriate, must make referrals to local, State, or Federal entities for the provision of services or further diagnosis.
- (e) Biennial report. To be eligible to receive a grant pursuant to paragraph (a) of this section, the tribe or tribal organization must provide to the Secretary of the Interior a biennial report of activities undertaken under this section, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the two years following the year in which the report is made. The Secretary of the Interior must include a summary of this information on a biennial basis in the report to the Secretary required under section 611(h) of the Act. The Secretary may require any additional information from the Secretary of the Interior.

- (f) Prohibitions. None of the funds allocated under this section may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

(Authority: 20 U.S.C. 1411(h)(4))

Note: While tribes receive Part B funds to assist in child find, screening, and other procedures for the early identification of children aged three through five, it is the SEA that is responsible for conducting child find for all children aged three through five on reservations, with the exception of five-year-olds enrolled in an elementary school operated or funded by the Secretary of the Interior.

Bureau of Indian Education (BIE)

The U.S. Department of Education provides Part B funds to the Secretary of Interior for providing Special Education and Related Services to children with disabilities on reservations aged five through 21 enrolled in elementary and secondary schools operated or funded by BIE.

SEAs and LEAs may provide Part B funds, through MOUs, to the tribes to assist them in coordinating child find and providing direct services to preschool children with disabilities aged three through five living on reservations. However, as noted above, the SEA and LEA remain responsible for conducting child find and making a free appropriate public education available to those children.

Note: It's still the LEA's responsibility to report on 618 data.

Sec. 300.707 Use of amounts by Secretary of the Interior.

- (a) Definitions. For purposes of Sec. Sec. 300.707 through 300.716, the following definitions apply:

- 1) Reservation means Indian Country as defined in 18 U.S.C. 1151.
- 2) Tribal governing body has the definition given that term in 25 U.S.C. 2021(19).

- (b) Provision of amounts for assistance. The Secretary provides amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of the payment for any fiscal year is equal to 80 percent of the amount allotted under section 611(b)(2) of the Act for that fiscal year. Of the amount described in the preceding sentence, after the Secretary of the Interior reserves funds for administration under Sec. 300.710, 80 percent must be allocated to such

schools by July 1 of that fiscal year and 20 percent must be allocated to such schools by September 30 of that fiscal year.

- (c) **Additional requirement.** With respect to all other children aged 3 to 21, inclusive, on reservations, the SEA of the State in which the reservation is located must ensure that all of the requirements of Part B of the Act are implemented.

(Authority: 20 U.S.C. 1411(h)(1))

10. What should be included in the MOU between the LEAs and the BIE to ensure special education and related services and child find are appropriately provided for children residing on reservations within the jurisdiction of the LEA?

Response:

- Define which service will be provided by each party.
- Ensure that children eligible for special education services receive a free appropriate public education (FAPE), as required by law, in the least restrictive environment (LRE).
- Ensure that each party cooperatively maintains communication and shares leadership responsibilities at the local level to ensure available resources are used in the most effective manner.
- Ensure that cooperative arrangements between LEAs and FACE are developed, implemented, and preserved.

Suggested MOU Format

MEMORANDUM OF UNDERSTANDING
BETWEEN
Name of PUBLIC SCHOOLS
AND
School Name

This Memorandum of Understanding, hereinafter referred to as "Agreement", is between Name of School District, a Local Education Agency (LEA), hereinafter referred to as "Initials of School District" and School Name, hereinafter referred to as "School Initials" and its Family and Child Education Program, hereinafter referred to as "FACE", respectively, and is in effect from January 2009 to January 2012.

I. PURPOSE

The purpose of this Agreement is to establish a cooperative relationship and working procedures between Initials of School District and School Initials FACE program in the provision of special education and related services to eligible children in compliance with applicable federal, Tribal Name and state laws and regulations. Eligible children are those children, ages 3 to 5, with disabilities who reside in Initials of School District.

The intent of this Agreement is to

1. define which services will be provided by each party;
2. ensure that children eligible for special education services receive a free appropriate public education (FAPE), as required by law, in the least restrictive environment (LRE);
3. ensure that each party cooperatively maintains communication and shares leadership responsibilities at the local level to ensure available resources are used in the most effective manner; and
4. ensure that cooperative arrangements between Initials of School District and School's FACE are developed, implemented, and preserved.

II. PROGRAM MANDATES

Initials of School District will be responsible for

1. providing services to eligible children, ages 3-5, on a mandatory basis as defined by Public Law 108-446, Individuals with Disabilities Education Act (IDEA 2004; IDEIA);

2. providing eligible children a free appropriate public education (FAPE), including the development and implementation of an Individual Education Program (IEP), which contains all of the required components, as well as parental participation, procedural safeguards, and the provision of related services; and
3. determining and placing eligible children in the most appropriate setting, which shall be the least restrictive environment (LRE) with multiple opportunities to learn, develop, and form positive relationships with peers who do not have disabilities.

FACE will be responsible for

1. supporting Child Find activities;
2. screening children for potential problems in health and early development within 45 days of enrollment when Initials of School District has not performed such screening; and
3. referring children determined to have developmental delays to appropriate professionals, including Initials of School District providers, for diagnostic evaluation within established time frames.

Initials of School District and **FACE** will be responsible for

1. working closely with community and other agencies in order to provide effective services to eligible children;
2. working cooperatively with parents/legal guardians to develop and implement IEPs for eligible children; and
3. providing native language interpretation for families as needed.

III. PROGRAM CONTACT INFORMATION

A. For Initials of School District:

First and Last name, Superintendent
 Name of County
 P.O. Box Address
 City, State, Zip Code
 (Area Code) Phone Number

B. For School District:

First and Last Name, Superintendent
 District Name
 Street Address
 P.O. Box Address
 City, State, Zip Code
 (Area Code) Phone Number

IV. SPECIAL EDUCATION SERVICES

A. Child Find/Screening

Initials of School District and FACE will

1. participate jointly on Child Find teams to plan and assist with Child Find screening events for children, ages 3–5, who reside in Initials of School District;
2. coordinate the screening process and procedures as well as the selection and use of screening instruments and assessment materials; and
3. conduct Child Find screenings together at designated community-based sites in Initials of School District, preferably at Name of School FACE located in Initials of County.

Initials of School District will

1. provide screening results to parents/guardian(s) and FACE and inform parents/guardians(s) of program options that may be available to them and their child; and
2. provide a native language interpreter for families and children who need such assistance throughout the Child Find screening process.

FACE will

1. provide transportation, when needed, to families and children, ages 3–5, residing in Initials of School District; and
2. provide a native language interpreter for families and children who need such assistance throughout the Child Find screening process.

B. Referral for Evaluation

Initials of School District will

1. follow all Initials of School District and State Education Department (NMPED) guidelines for referral;
2. provide referral forms and a “single” point of contact or use appropriate FACE forms to avoid duplication;
3. provide training to FACE staff on the delivery of special education services and the timely completion of referral forms;

4. provide all appropriate written evaluation reports to FACE; and
5. schedule and facilitate IEP team meetings, using a native language interpreter when needed, to share evaluation results with parents/guardian(s) and appropriate staff and to collaboratively develop IEP learning goals/objectives/activities that meet each child's educational needs.

FACE will

1. obtain information documenting the need for referral;
2. provide a referral for each child by completing designated referral forms; and
3. submit completed referral forms to Initials of School District for action as per Initials of School District /SDDOE and Name of School timelines.

C. Comprehensive Evaluation

Initials of School District will

1. formally evaluate children who may require special needs services at FACE, in their most natural environment, with agreed upon assessments for vision, hearing, speech/language (SLP), occupational therapy (OT), physical therapy (PT), and psycho- educational development;
2. whenever possible, conduct appropriate evaluations at designated Name of School sites;
3. provide evaluation assessments, materials and testing protocols;
4. provide a native language interpreter for families in need of such assistance for all formal evaluations;
5. provide written evaluation reports according to IDEIA requirements; and
6. initiate Multidisciplinary Team (MDT) meetings, when appropriate.

FACE will

1. provide initial developmental, hearing, and vision screening within 45 days after a child's enrollment and report results to Initials of School District when there are identifiable concerns;
2. compile background information for all children with identified concerns using the appropriate Initials of School District and FACE forms;
3. obtain signatures from parents/guardian(s) for permission to share information that may result in an evaluation;
4. notify Initials of School District that parental permission to share information has been obtained within twenty-four (24) hours of obtaining consent;

5. notify parents/guardian(s) verbally and in writing of the date, time and place of evaluation;
6. provide families with transportation, when necessary, to appointments at designated Initials of School District sites and/or Name of School sites;
7. provide a native language interpreter for families in need of such assistance for all evaluations; and
8. participate in Multidisciplinary Team (MDT) meetings when appropriate and notify parents/guardian(s) in a timely manner of such meetings.

D. Individual Education Program (IEP) Development

Initials of School District and FACE will

1. set up IEP meetings cooperatively, including the provision of a native language interpreter when needed; and
2. develop IEP goals and objectives cooperatively with parents/guardian(s) to meet each child's educational needs and in accordance with ADA requirements.

Initials of School District will

1. initiate the MDT/IEP process by notifying appropriate Name of School staff that all evaluations are completed;
2. use Initials of School District's IEP forms; and
3. provide copies of each child's IEP to parents/guardian(s) and to appropriate Name of School staff and teachers, with the signed parent consent form.

FACE will

confirm the date/time/place of IEP meetings with parents/guardian(s) verbally and in writing.

E. Placement

Initials of School District will

1. follow federal and state guidelines and requirements for placement;
2. conduct MDT meetings with parents/guardian(s) to determine the least restrictive environment (LRE) for each child and inform them of procedural safeguards and due process; and
3. provide a native language interpreter for families when needed.

FACE will

1. provide community-based placement for identified children in the least restrictive environment (LRE);
2. follow eligibility criteria for enrollment in FACE; and
3. provide program information packets to parents/guardian(s) of children referred to any of Name of School's family/early education programs.

F. Specific Program Service Delivery

Initials of School District will

1. provide direct and consultative therapy to meet each child's IEP goals;
2. plan and conduct continuous in-service training to FACE staff on culturally sensitive techniques for working with and supporting young children with disabilities; and
3. provide ongoing staff consultation and training to meet each child's IEP goals.

FACE will

1. collaborate with Initials of School District to implement IEP goals;
2. provide educational materials and equipment for classroom curriculum and IEP implementation;
3. provide appropriate services to children in accordance with ADA eligibility guidelines as necessary; and
4. provide transportation for children, when needed, to designated community sites for service delivery.

G. Procedures for Review/Monitoring Child's Progress

Initials of School District will

1. provide ongoing consultation to appropriate FACE staff regarding each child's progress;
2. prepare written progress reports for each child as requested by parents/guardian(s) to maintain consistent communication and submit them to the appropriate FACE staff;
3. initiate an annual review meeting on the child's progress with parents/guardian(s) and appropriate staff and, when needed, provide native language interpretation; and

4. notify parents/ guardian(s) of the annual review meeting in a timely manner, verbally and in writing.

FACE will

1. keep daily attendance records for each child served and a current log of Initials of School District and other service provider visits;
2. consult with Initials of School District staff regarding each child's progress;
3. report the child's progress to parents/ guardian(s) at scheduled meetings;
4. meet with parents/ guardian(s) when Initials of School District progress reports are received to share and explain their child's progress and Initials of School District progress reports; and
5. participate in annual review meetings with Initials of School District staff and parents/ guardian(s).

H. Procedures for Hiring and Supervising Staff Providing Special Services

Initials of School District and Name of School will

1. follow their own specific hiring procedures;
2. hire and supervise their own staff;
3. provide appropriate personnel for carrying out the terms of this Agreement;
4. notify each other of any concerns and needs of the staff on site at Name of School; and
5. communicate with each other about any other pertinent information/situations that will affect children and/or the timely delivery of services.

V. SPECIAL EDUCATION SERVICES

FACE will be responsible for:

1. documenting and providing written observations of each child's social-emotional development and any identified issues/concerns, in collaboration with other Name of School staff;
2. obtaining a completed Medical Health History for each child enrolled;
3. using the Ages & Stages Questionnaire (ASQ) and Ages & Stages Questionnaire: Social Emotional Checklist (ASQ:SE) to assess the developmental level of each child within 45 days after enrollment;

4. conducting interviews with parents/ guardian(s) on their child's social-emotional development when there are concerns that staff and/or parents/ guardian(s) may have identified;
5. conducting more specific screening of a child by appropriate staff and/or health professionals when the observational assessments indicate a need for further attention;
6. immediately informing parents/ guardian(s) when further screening of their child indicates the need for special education services and requesting their permission, with signed consent forms, to have their child undergo further professional evaluation by
 - i. Mental Health Physician (Westernized Mental Health Services) or
 - ii. Native Practitioner (Traditional Diagnostician/ Healer) or
 - iii. Both
7. making referrals for FACE children by
 - i. having parents/ guardian(s) and their child's teacher complete the appropriate assessments as mandated by each program (e.g., ASQ, ASQ:SE, Work Sampling System, Mental Health Behavior Checklist); and
 - ii. completing the appropriate referral and consent forms for each child and forwarding them to Initials of School District; and
8. ensuring that each child and family will have transportation to the evaluation and assessment site(s).

Initials of School District will be responsible for

1. accepting the referral and supporting documents from FACE staff and timely action on the concerns identified; and
2. providing formal evaluation and assessment in the following areas:
 - a. Physical Coordination/Development
 - b. Intellectual Development
 - c. Sensory Development
 - d. Emotional Development
 - e. Social Development
 - f. Speech/ Language Development
 - g. Physical Examination

Initials of School District and Name of School will be responsible for

1. actively participating as members of a Study Team. The Study Team, comprised of the parents/ guardian(s), child's teacher, and as appropriate, the Health

Physician/Native Practitioner, Initials of School District representative, and other concerned service providers for the child, will attend this meeting; and

2. ensuring that the parents/guardian(s), members of the Study Team and other service providers review the child's progress.

VI. TRANSITION

The transition of children with disabilities in the Name of School Community occurs when a child is exiting the Name of School Early Intervention Program (EI) or another EI program and enters Name of School FACE, Head Start, or a local preschool or child care center. Another transition occurs when a child is exiting from a preschool setting and enters a kindergarten program at Initials of School District or at Name of School District Schools, a Bureau of Indian Education (BIE)-funded grant school. Effective transition occurs when all appropriate parties are communicating, including but not limited to Initials of School District, Name of School District Schools, EI, and the parents/guardian(s) of the child with a disability. In order to assure the effective transition of children from one educational setting to another, the following procedures have been established.

Initials of School District and Name of School will

1. cooperate in coordinating the scheduling of transition activities, including 90-day transition conferences, initiated by EI, for parents/guardian(s) of children exiting EI and appropriate staff to discuss options for the most appropriate placement for their children;
2. cooperate in arranging family visits and transport, when needed, for transitioning children and their parents/guardian(s) to local family/early education programs and schools, before their annual review meeting;
3. provide each family with written parent information for the program/school in which their child has enrolled; and
4. provide a native language interpreter for families in need of such assistance throughout the transition process.

TECHNICAL ASSISTANCE

Initials of School District and FACE will

1. inform each other of all pertinent training opportunities related to services for young children with disabilities and invite staff to participate;
2. coordinate Initials of School District training and technical assistance activities, as appropriate, with all program calendars to ensure full staff and, as applicable, family participation; and
3. network and collaborate with local/regional resource programs, such as Indian Children's Program (ICP), Parent Training and Information Centers, and National Indian Parent Information Center (NIPIC), on staff training and family/parenting education, advocacy and ongoing support.

VII. CHILD COUNT AND REPORTING

Initials of School District and FACE will maintain their own records according to regulatory guidelines and provide documentation and support to any of the other parties as requested.

VIII. DISPUTE RESOLUTION

In the event that a misunderstanding or difference of opinion occurs with regard to the procedures necessary to accomplish the objectives of this Agreement, both parties will meet to find a solution.

X. TERMINATION/REVIEW

This Agreement will be reviewed annually and be revised by Initials of School District and Name of School on an as-needed basis, in order to remain in effect. This Agreement may be terminated by either party upon thirty (30) days' written notice.

XI. SIGNATURES

FOR Initials of School District - AUTHORIZED LEA REPRESENTATIVE

First Name & Last Name, Superintendent
Name of School District
P.O. Box Address
City, State, Zip Code
(Area Code) Phone Number

Date

FOR Name of School - AUTHORIZED REPRESENTATIVE

First Name & Last Name, Principal
School District
School Address
City, State, Zip Code
(Area Code) Phone Number

Date

FOR SCHOOL BOARD PRESIDENT - AUTHORIZED REPRESENTATIVE

First Name & Last Name, Board President
School Name
School Address
City, State, Zip Code
(Area Code) Phone Number

Date

FOR EDUCATION LINE OFFICER - AUTHORIZED REPRESENTATIVE

First Name & Last Name
Agency Representing
Agency Address
City, State, Zip Code
(Area Code) Phone Number

Date

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